



CITY OF BOSTON • MASSACHUSETTS

OFFICE OF THE MAYOR
MARTIN J. WALSH

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BOSTON, MA

EXECUTIVE ORDER

November 12, 2020

Establishing the Civilian Review Board

WHEREAS, historic data shows that Black, Indigenous, and People of Color (“BIPOC”) in the United States have been disproportionately subjected to police violence and misconduct, questionable and intrusive investigatory stops, and disparate treatment at the hands of law enforcement;

WHEREAS, on June 12, 2020, Mayor Martin Walsh signed the Reimagining Policing Pledge issued by the Obama Foundation’s My Brother’s Keeper Alliance as a commitment to review the Boston Police Department’s use of force policies, implement police reform and combat systemic racism in law enforcement;

WHEREAS, the Boston Police Reform Task Force (“Task Force”), an eleven (11) member group composed of community leaders, advocates, legal professionals and members of law enforcement, convened to review the Boston Police Department’s policies and procedures and presented its recommendations for action and police reform to the Mayor and Bostonians;

WHEREAS, as part of its recommendations, the Task Force recommended the creation of an Office of Police Accountability and Transparency (“OPAT”), an independent office under a commission charged with the review and investigation of Boston Police Department internal affairs investigations, the review and investigation of civilian complaints involving the Boston Police Department and its employees, and subpoena power and investigatory authority to conduct its own independent investigation;

WHEREAS, to achieve the fundamental purpose of enforcing accountability and increasing the transparency of the Boston Police Department internal affairs process, the Task Force recommended establishing the Civilian Review Board (“CRB” or “Board”), supported by the OPAT;

WHEREAS, the recommended purposes of the CRB include to review and recommend action on certain complaints against the BPD, review certain BPD policies and provide public voice to the

BPD and Mayor on related issues of importance to the community, and review treatment of BIPOC officers in the BPD;

NOW, THEREFORE, pursuant to the authority vested in me as chief executive officer of the City of Boston, St. 1948, c. 452 § 11, and every other power hereto enabling, I hereby order and direct the establishment of the CRB.

ARTICLE I. BOARD MEMBERSHIP.

The Board will consist of nine members who shall be residents of Boston. The Mayor will appoint members based on recommendations from the City Council and Boston community. The President of the City Council will recommend three appointees designated by the City Council for consideration, although the Mayor need not appoint any such recommended person and may request additional recommendations from the City Council. The Mayor will appoint six members from a pool of applicants recommended by civil rights advocacy groups, youth organizations, neighborhood associations, and those with past experience and knowledge of law enforcement. Board members must not be current members of law enforcement. The Board will be led by the Chair of the CRB, who shall be designated by the Mayor.

Board members shall each serve a term of three (3) years, provided however that of the members first appointed, three shall be appointed for a term of one year, three shall be appointed to a term of two years, and three shall be appointed for a term of three years. Thereafter, the Mayor shall appoint each successor for a term of three years. Any vacancy occurring otherwise than by the expiration of a term shall be filled for the unexpired term in the same manner as the position was originally filled. Board members shall not serve more than two consecutive three-year terms.

ARTICLE II. BOARD MEMBER COMPENSATION.

Each member will be paid one hundred dollars (\$100.00) per hour for his/her service, not to exceed fifty thousand dollars (\$50,000.00) per year.

ARTICLE III. BOARD MEMBER TRAINING.

Board members will undertake preliminary training prior to beginning their review of any matters as part of the Board. This training will be formulated by designees of the Police Commissioner, and approved by the Mayor. In the event that an OPAT Office is created, the training will be formulated by the OPAT Office with the support of BPD.

ARTICLE IV. DUTIES OF THE BOARD.

The Board will:

- A. Conduct an independent inquiry or investigation where necessary, into complaints made against the Boston Police Department;
- B. Resolve complaints or matters not within the scope of review of the Internal Affairs Oversight Panel;
- C. At the Board's discretion, review any instances where a BIPOC officer is disciplined or terminated and forward any resulting recommendations to the Police commissioner for review;
- D. Periodically evaluate alternative options and/or improvements to the civil service examination process;
- E. Provide timely review of existing or proposed Boston Police Department policies and procedures to consider whether they, when applied to the public, perpetuate discrimination based on race, ethnicity, gender identity, sexual orientation, youth, advanced age, housing status, substance use, mental and/or behavioral health and/or national origin, and provide recommendations for the revisions of those policies and procedures to the Police Commissioner; and,
- F. Convene all Board members at least once per quarter, but more often at the discretion of the Board.

ARTICLE V. POWERS OF THE BOARD.

The Board will have the following powers when reviewing complaints:

- A. To review complaints as set forth in Section VI below as appropriate for investigation and review by the CRB;
- B. To have access to all materials relative to the complaint, except those documents protected from disclosure by law;
- C. To investigate complaints and request information from any person who may have knowledge of the circumstances of the complaint or matter, which investigation shall be conducted with the support of OPAT Staff and the OPAT Commission once established;
- D. To make recommendations to the Police Commissioner regarding reviewed complaints or other matters before the Board.

ARTICLE VI. COMPLAINTS REVIEWED BY THE BOARD.

The Board will review and where appropriate conduct investigations into complaints against sworn and civilian members of the Boston Police Department.

- A. Complaints appropriate for review include, but are not limited to, the following:
1. In-custody death or serious bodily injury while in Boston Police Department custody;
 2. Use of force cases resulting in death or serious bodily injury;
 3. Allegations of perjury by a police officer;
 4. Allegations that the conduct of an officer was motivated by discriminatory intent; and,
 5. Any other complaint deemed appropriate for review by the Board or referred to it for review by OPAT Staff once established.
- B. In no event shall the inquiry or investigation by the CRB interfere with any criminal investigation or civil proceeding by any authority with jurisdiction. Where an investigation by the CRB may interfere with a criminal investigation or a civil proceeding, the CRB will seek to avoid such interference by, among other things, staying its investigation until such time as it will not interfere with other authorities or courts with jurisdiction over the matter.
- C. The Board may in its discretion research and investigate issues related to the general mission of increasing transparency, improving training and enhancing accountability of policing in Boston and make recommendations accordingly.

ARTICLE VII. BOARD REVIEW PROCESS.

- A. Complaints must include a summary of the allegation(s), the name if known of the accused, and the contact information of the complainant. A complainant seeking to file a complaint may mail, hand deliver, or electronically submit their complaint. Complaints may be mailed or hand or electronically delivered to:

Until such time as an OPAT Office is created, to such other physical or electronic addresses as the CRB directs and publicizes on the City of Boston website

OR, Executive Director

[insert ALL addresses for receiving complaints designated by OPAT Office when created, including online submission information]

- B. The employee serving as the Board's Executive Secretary will record the date that each complaint was received, classify the complaint, and refer appropriate complaints to the Board. Subject to any specific procedures that the CRB and OPAT Office create, the Executive Secretary will confirm receipt of the complaint to the complainant, and provide a copy of the complaint to the Police Commissioner, the Chief of the Bureau of Professional Standards and the Legal Advisor. The Executive Secretary will redact the

complaint and any accompanying documents to prevent the unauthorized release of privileged or protected information pursuant to Massachusetts General Laws.

- C. Matters that are the subject of complaints the CRB reviews under Article VI will be investigated in accordance with the protocols, rules and procedures adopted by the OPAT. Any such rules and procedures shall include the right to representation by counsel by the complainant and any BPD personnel, and shall not purport to eliminate any rights established by collective bargaining agreement or by law.
- D. Following the review of a complaint, the Board will deliberate and make one of the following findings:
 - 1. Sustained;
 - 2. Not Sustained;
 - 3. Exonerated;
 - 4. Unfounded; or,
 - 5. Information Inquiry or Insufficient Evidence to Make a Finding.
- E. If the Board makes a Sustained finding, the complaint will be referred to the Police Commissioner for disciplinary action, with a copy provided to the OPAT Commission once established.
- F. All determination outcomes must be published periodically as determined by the Board without modification or approval of any city employee or other body.
- G. The Executive Secretary will notify the complainant of the determination made by the Board. All notifications made to the complainant must be sent by certified mail, return receipt requested.

ARTICLE VIII. TIMELINE FOR REVIEW OF COMPLAINTS.

- A. After completing its preliminary training, the Board, in conjunction with the OPAT Office when created, shall establish a target timeline for the Board's review of complaints and shall publicize the timeline status of each case via the Boston Police Department's electronic Dashboard upon its creation. The timelines shall be based upon the timelines recommended by the Task Force in Appendix 3 to its report, with details and application of those recommended timeline specified by the CRB and, when created, OPAT Staff.
- B. The individuals involved in the complaint will receive notification from the Executive Secretary. The notification will include, *inter alia*, the classification level of the internal affairs case, the date received by the Executive Secretary, and a ticket or identification number.
- C. If the Board is unable to adhere to the timeline for review set forth above, the Executive Secretary must notify the individuals involved in the complaint.

ARTICLE IX. COMPLAINT MEDIATION PROGRAM.

The Boston Police Department has implemented the Police-Community Mediation Program. This program serves as a voluntary alternative to the formal complaint process, and will be available to those officers and complainants involved in less serious incidents. The Police Commissioner, or his designee, determines which complaints are appropriate for the Complaint Mediation Program. Upon receipt of a complaint, if either the Executive Secretary or the CRB determines that the Police-Community Mediation Program is appropriate for the matter, the Executive Secretary shall contact both Complainant and the Police-Community Mediation Program in order to inform them of the opportunity to mediate and facilitate the initiation of mediation at the election of the Complainant. Where a Complainant elects not to participate in mediation, the Executive Secretary will refer any appropriate complaint to the CRB. The Executive Secretary will compile data regarding the program, its participation, and its effectiveness, and provide the information to the OPAT and/or CRB on request.

ARTICLE X. EXECUTIVE SECRETARY TO BE REPLACED BY OPAT EXECUTIVE DIRECTOR.

In the event that the City creates the OPAT, all duties set forth in this Order to be performed by the Executive Secretary will transfer to the OPAT Executive Director.

I order and direct that all Cabinet members, Department Heads and City of Boston employees take all necessary steps to implement the above directive.

I further order and direct that one copy of this Order be delivered to the Police Commissioner of the City of Boston and that another be filed with the Clerk of the City of Boston.

This Order shall take effect on November 12, 2020.



Martin J. Walsh
Mayor of Boston

11-12-20

Dated: